

TENNESSEE GENERAL ASSEMBLY  
FISCAL REVIEW COMMITTEE



FISCAL MEMORANDUM

SB 409 – HB 1024

April 8, 2013

**SUMMARY OF ORIGINAL BILL:** Creates a Class E felony for any person actively participating in a criminal gang to promote, further, or assist any criminal conduct by members of that gang.

Creates an enhancement for any criminal conduct committed by a gang member on the grounds of or within 1,000 feet of a school. If the criminal conduct is a Class A misdemeanor, then such conduct will be enhanced to a Class E felony.

Creates a Class D felony for a criminal gang member unlawfully possessing a firearm on any street, road, alley, gangway, sidewalk, or any other lands or in any vehicle while on any street, road, alley, or any other lands if the criminal gang member does not have a valid handgun carry permit unless the gang member is in his her abode or fixed place of business.

FISCAL IMPACT OF ORIGINAL BILL:

Increase State Expenditures – \$2,294,400/Incarceration\*

**SUMMARY OF AMENDMENTS (004511, 006308):** The original bill prohibits criminal conduct by a gang member on the grounds of or within 1,000 feet of “a public or private elementary, vocational, junior high, middle school, high school, youth center, or recreation center.” Amendment 004511 adds facilities serving after-school or summer youth development programs to those places where criminal conduct by a gang member will be enhanced. Amendment 006308 deletes subdivision (c)(2) from 39-17-1903 of the bill to correct a cross-reference to Tenn. Code Ann. § 40-35-121(a)(2).

FISCAL IMPACT OF BILL WITH PROPOSED AMENDMENTS:

Unchanged from the original fiscal note.

Assumptions for the bill as amended:

- According to the Tennessee Bureau of Investigation’s 2011 School Crimes Report ([www.tbi.tn.gov/tn\\_crime\\_stats/documents/SchoolCrimeStudy2011\\_FINAL.pdf](http://www.tbi.tn.gov/tn_crime_stats/documents/SchoolCrimeStudy2011_FINAL.pdf)), there has been an average of 159 gang related criminal offenses per year committed at


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schools over the past three years. According to the same report, the three-year average clearance rate for crimes committed at schools was 43.5 percent.

- It is assumed that the same clearance rate that is realized for all crimes at schools will be realized for gang related crimes at schools. The bill would result in 69 admissions ( $159 \times .435$ ). Of these 69 admissions, it is assumed that 10 percent would have committed unlawful possession of a firearm.
- The bill would result in 62 admissions for the Class E felony of a gang member to actively participate, further, or assist in criminal gang activity and 7 admissions for the Class D felony of unlawful possession of a firearm by a gang member.
- According to the Department of Correction (DOC), the average operating cost per offender per day for calendar year 2013 is \$64.17.
- According to the U.S. Census Bureau, population growth in Tennessee has been 1.12 percent per year for the past 10 years, yielding a projected compound population growth of 11.78 percent over the next 10 years. Population growth will account for seven ( $62 \times .1178$ ) additional admissions for a total of 69 ( $62 + 7$ ) admissions for promoting, furthering, or assisting criminal gang activity.
- The maximum cost in the tenth year, as required by Tenn. Code Ann. § 9-4-210, is based on 69 offenders serving an additional 1.21 years (441.95 days), the average time served for a Class E felony, for a total of \$28,360 ( $\$64.17 \times 441.95$  days). The cost for 69 offenders is \$1,956,840 ( $\$28,360 \times 69$ ).
- According to the U.S. Census Bureau, population growth in Tennessee has been 1.12 percent per year for the past 10 years, yielding a projected compound population growth of 11.78 percent over the next 10 years. Population growth will account for one ( $7 \times .1178$ ) additional admissions for a total of eight ( $7 + 1$ ) admissions for unlawful possession of a firearm by a criminal gang member.
- The maximum cost in the tenth year, as required by Tenn. Code Ann. § 9-4-210, is based on eight offenders serving an additional 1.80 years (657.45 days), the average time served for a Class D felony, for a total of \$42,189 ( $\$64.17 \times 657.45$  days). The cost for eight offenders is \$337,512 ( $\$42,189 \times 8$ ).
- The total incarceration cost is \$2,294,352 ( $\$1,956,840 + \$337,512$ ).

## **CERTIFICATION:**

The information contained herein is true and correct to the best of my knowledge.



Lucian D. Geise, Executive Director

/trm